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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/715,514	11/19/2003	Kenichi Nakabayashi	2003_1640A	4689
513	7590	09/16/2005	EXAMINER	
WENDEROTH, LIND & PONACK, L.L.P. 2033 K STREET N. W. SUITE 800 WASHINGTON, DC 20006-1021			MATTHEWS, TERRELL HOWARD	
		ART UNIT		PAPER NUMBER
				3654
DATE MAILED: 09/16/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/715,514	NAKABAYASHI ET AL.	
	Examiner Terrell H. Matthews	Art Unit 3654	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on \_\_\_\_.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-4 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_ is/are allowed.
- 6) Claim(s) 1-4 is/are rejected.
- 7) Claim(s) \_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | Paper No(s)/Mail Date. ____ .   |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>11/19/2003</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|   | 6) <input type="checkbox"/> Other: ____ .                                   |

## DETAILED ACTION

Claims 1-4 are pending in the instant application

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over Arimoto (5760343) in view of Cox (5168978).

Referring to claim 1. Arimoto discloses a "Combinational weighing system and method for automatically aligning weighed article batches" as claimed. See Figs. 1-19 and respective portions of the specification. Arimoto discloses a transfer conveyor transferring articles arrayed to be separated and supplied (19A), a separating conveyor (19B), a first stopper stopping the feeding-in of articles transferred by the transfer conveyor (18), a second stopper being arranged so as to stop a predetermined number of articles on the separating conveyor to stop feeding-out of articles from the separating conveyor. Arimoto does not disclose a counter counting the number of said articles received by said separating conveyor or a separating conveyor being supported pivotably around one end portion as a pivotal center. Cox discloses a "Conveyor with transverse positioning" as claimed. See Figs. 1-12 and respective portions of the specification. Cox further discloses a conveyor system (10) comprising in-feed conveyor (19), out feed conveyor (20), base frame (22), table portion (23), drive roller (25),

conveyor strands (31), carriage (34), sliding block (42), arm member (70), air cylinders (73-74) and piston rods (75,78) Col. 2 l. 45-65). Cox further discloses that conveyor strands (31) are attached to arm member (70), which is pivotally attached to the sliding block (42) and further discloses different positioning and angles of conveyor strands (31) (See Col. 3 l. 33 – Col. 4 l. 10 & Figs. 6-12). Cox further discloses the use of his apparatus in conjunction with a photo eye and counter, which would detect and separate a number of articles being counted. It would have been obvious to a person of ordinary skill in the art to modify the apparatus of Arimoto to include a conveyor that was supported pivotably around an end portion taught by Cox so that articles could be separated into batches while being counted making it more efficient and precise during separation for different batches of items.

Claims 1-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Arimoto (5760343) in view of Tasaki (10-264901).

Referring to claim 1. Arimoto discloses the invention as described above. Arimoto does not disclose a counter or a separating conveyor being supported pivotably around one end portion as a pivotal center. Tasaki discloses a "Casing Apparatus" as claimed. See Figs. 1-4 and respective portions of the specification. Tasaki further discloses a conveyor that can be rotated around an axis of rotation when a predetermined number of articles are arranged on the arranging board. It would have been obvious to a person of ordinary skill in the art to modify the apparatus of Arimoto to include a conveyor that could be rotated as taught by Tasaki so that groups of items could be separated into

batches at the same time. Additionally, it would have been obvious to a person of ordinary skill in the art to modify the apparatus of Arimoto to include a counter so that batches of items could be separated into a precise number of items for each given batch.

Claims 2-3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Arimoto in view of Cox in further view of Iwamoto (5979637).

Referring to claims 2-3. Arimoto discloses the apparatus as described in detail above. Arimoto does not disclose a counter, a separating conveyor being supported pivotably around one end portion as a pivotal center, or a plurality of second stoppers projecting from the endless belt constructed changeable by movement of the endless belt that are arranged with intervals to maintain between each of them. Cox discloses the invention as described in detail above. Cox does not disclose a plurality of second stoppers projecting from the endless belt constructed changeable by movement of the endless belt that are arranged with intervals to maintain between each of them. Iwamoto discloses a "Pallet Conveyor" as claimed. See Figs. 1-6 and respective portions of the specification. Iwamoto further discloses a plurality of spacer projections (18) fixedly provided on the outer periphery of endless belt (19) at regular intervals (See Col. 2 l. 48-50). It would have been obvious to a person of ordinary skill in the art to modify the apparatus of Arimoto to include the teachings of Iwamoto and implement spacer projections on the endless belt so that groups of items could be stopped and grouped

into batches of different sizes once a predetermined number of articles was reached which would aid in separation of one group of articles from the other.

Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Arimoto (5760343) in view of Cox (5168978).

Referring to claim 4. With respect to claim 4, the method described in these claims would inherently result from the use of Arimoto's apparatus in view of Cox apparatus as advanced above. Additionally, Arimoto discloses an apparatus that would cause the first stopper to stop the feeding-in of articles transferred by the transfer conveyor as soon as articles of a predetermined number are conveyed and which would release the second stopper so that the articles of a predetermined number are fed out to a place of separation as well as release the first stopper so that articles of a predetermined number are fed in after second stopper by the transfer conveyor (See Co. 4 l. 25 – Col. 5 l. 64). It is understood from Fig. 1 that articles are supplied to conveyor (19) until they reach stopper (34) and then when a predetermined number is reached they are released until they reach a second stopper (38) and are eventually discharged out to a place of separation for packaging.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Terrell H. Matthews whose telephone number is (571)272-5929. The examiner can normally be reached on M-F 8am - 4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kathy Matecki can be reached on (571) 272-6951. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

THM

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